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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/509,421	08/02/2005	Motoyuki Sugiura	14974-46922	7438

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EXAMINER

MULLIS, JEFFREY C

ART UNIT

PAPER NUMBER

1796

NOTIFICATION DATE

DELIVERY MODE

12/28/2009

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

10/509,421

Applicant(s)

SUGIURA ET AL.

Examiner

Jeffrey C. Mullis

Art Unit

1796

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 September 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 15-38 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 15-38 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/22)
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date: _____

Claims 15-38 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

A block copolymer is necessarily a copolymer and is not a homopolymer as is implied by "homo" in the claims and it is therefore unclear if the instant claims require the use of the recited block copolymer.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 15-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fukushima (JP 2002-020576).

Patentees disclose a composition which is produced by polymerization of polymerizable organic peroxides in the presence of a propylene polymer is reacted with an acrylic polymer and crosslinker. Note the CAPLUS abstract. Note also the Patent Abstracts of Japan Abstract for use of a "graft copolymer and the acrylic rubber".

Hydroxypropylmethacrylate may be used to produce the graft copolymer at paragraph 22. Particle sizes of the two components are 0.1-1 micron in paragraph 31. Applicants "acrylic rubber" monomers and percentages thereof are disclosed in paragraphs 37 and 38 which also refers to the monomers as being useful for producing "acrylic rubber".

The two components are reacted together with "cross linking agent" and a "bridge

accelerator" encompassing applicants "co-crosslinking agent" at paragraph 43. The acrylic rubber may contain the crosslinker of the "vinyl system copolymer" (paragraph 39) such as include allyl methacrylate at paragraph 26. Note the table on page 12 for use of "MEA" (presumably methoxyethylmethacrylate) and "AN".

No examples are present in the patent having all of applicants components present in combination in applicants amounts. However to arrive at applicants composition by selecting from the various disclosures of the reference and combining them would have been obvious to a practitioner having an ordinary skill in the art at the time of the invention in the expectation of adequate results absent any showing of surprising or unexpected results. Paragraph 15 of the reference discloses that the olefin polymer may be polypropylene or ethylene propylene rubber and since paragraph 15 discloses nothing about these materials being block or containing sequences of different units those skilled in the art would interpret such polymers are random such as all claims read on. Since polypropylene is 100% propylene and since it is disclosed that ethylene propylene rubber is workable, those skilled in the art would assume that ethylene propylene polymers with any amount of ethylene is useable and would be especially motivated to use high propylene contents (and low ethylene) in patentees ethylene propylene polymers as in the instant claims given that 100% propylene polymers are specifically disclosed by the reference as workable as well as ethylene propylene polymers absent any showing of surprising or unexpected results.

Applicant's arguments filed 9-25-09 have been fully considered but they are not persuasive.

Applicants arguments are based on the use of the ethylene-propylene block copolymer. However the instant claims are not clearly limited to use of the block copolymer as set out above. The claims would be allowable if "homo/" were removed from the claims.

Any inquiry concerning this communication should be directed to Jeffrey C. Mullis
9-5 pm, M-F, at telephone number 571 272 1075.

Jeffrey C. Mullis
Primary Examiner
Art Unit 1796

JCM

12-18-09

/Jeffrey C. Mullis/

Primary Examiner, Art Unit 1796